

ASSEMBLY BILL

No. 2042

Introduced by Assembly Member Huber

February 23, 2012

An act to add Chapter 7 (commencing with Section 1220) to Division 5 of, to add Division 4.5 (commencing with Section 1100) to, and to repeal Division 5 (commencing with Section 1100) of, the Harbors and Navigation Code, relating to bay pilots.

LEGISLATIVE COUNSEL'S DIGEST

AB 2042, as introduced, Huber. Bar pilots: Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun.

Existing law provides for the regulation and licensing of pilots for Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun, and the payment of specified pilotage rates and charges imposed on vessels piloted in those bays. Existing law also establishes in the Business, Transportation and Housing Agency, a Board of Pilot Commissioners for Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun, and prescribes the membership of, and functions and duties of the board. Existing law establishes the Board of Pilot Commissioners' Special Fund, a continuously appropriated fund, for the purposes of receiving moneys received by the board in the implementation of the above provisions.

This bill would, on January 1, 2022, eliminate the board and transfer the board's functions and duties to the Secretary of Business, Transportation and Housing, and would recast and reenact certain provisions that regulate pilots for those bays, as provided. The bill would rename the Board of Pilot Commissioners' Special Fund as the Bar Pilot Special Fund.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Division 4.5 (commencing with Section 1100)
2 is added to the Harbors and Navigation Code, to read:

3
4 DIVISION 4.5. PILOTS FOR MONTEREY BAY AND THE
5 BAYS OF SAN FRANCISCO, SAN PABLO, AND SUISUN

6
7 CHAPTER 1. LEGISLATIVE POLICY AND FINDINGS

8
9 1100. The Legislature finds and declares that it is the policy
10 of the state to ensure the safety of persons, vessels, and property
11 using Monterey Bay and the Bays of San Francisco, San Pablo,
12 and Suisun, and the tributaries thereof, and to avoid damage to
13 those waters and surrounding ecosystems as a result of vessel
14 collision or damage, by providing competent, efficient, and
15 regulated pilotage for vessels required by this division to secure
16 pilotage services.

17 1101. The Legislature further finds and declares all of the
18 following:

19 (a) The maritime industry is necessary for the continued
20 economic well-being and cultural development of all California
21 citizens.

22 (b) The Bays of San Francisco, San Pablo, and Suisun provide
23 a vital transportation route for the maritime industry.

24 (c) The increase in vessel size and traffic, and the increase in
25 cargoes carried in bulk, particularly oil and gas and hazardous
26 chemicals, create substantial hazards to the life, property, and
27 values associated with the environment of those waters.

28 (d) The federal government has long adopted the policy of
29 providing minimum standards that ensure port and waterway safety
30 while encouraging state control over pilot qualifications.

31 (e) A program of pilot regulation is necessary in order to
32 ascertain and guarantee the qualifications, fitness, and reliability
33 of qualified personnel who can provide safe pilotage of vessels
34 entering and using Monterey Bay and the Bays of San Francisco,
35 San Pablo, and Suisun.

1 (f) The need to ensure safe and pollution-free waterborne
2 commerce requires that pilotage services be employed in the
3 confined, crowded, and environmentally sensitive waters of those
4 bays.

5 (g) The individual physical safety and well-being of pilots is of
6 vital importance in providing required pilot services.

7
8 CHAPTER 2. APPLICATION
9

10 1105. This division applies to pilots for Monterey Bay and the
11 Bays of San Francisco, San Pablo, and Suisun.
12

13 CHAPTER 3. DEFINITIONS
14

15 1109. “Agency” means the Business, Transportation and
16 Housing Agency.

17 1110. (a) “Bays of San Francisco, San Pablo, and Suisun”
18 means all the waters of those bays and of the tributaries, ports, and
19 harbors of those bays, and includes the water areas from the south
20 end of San Francisco Bay and from the Ports of Sacramento and
21 Stockton to the Golden Gate Bridge. “Bay of San Francisco, San
22 Pablo, or Suisun” means any of those waters, respectively.

23 (b) “Monterey Bay” means all the waters of that bay and of the
24 tributaries, ports, and harbors of that bay.

25 1111. “Former board” means the Board of Pilot Commissioners
26 for the Bays of San Francisco, San Pablo, and Suisun, as created
27 pursuant to former Section 1111.

28 1112. “High seas” includes all the navigable waters of the
29 Pacific Ocean west of the Golden Gate Bridge, and all navigable
30 waters west of the westward boundary of the pilotage grounds for
31 Monterey Bay.

32 1114. “Pilot” means either of the following:

33 (a) A person who pilots vessels.

34 (b) A person licensed as a bar pilot for the Bays of San
35 Francisco, San Pablo, and Suisun prior to January 1, 2013.

36 1114.5. “Pilotage grounds” means all waters extending
37 eastward from the precautionary area surrounding buoy SF to, and
38 including, the Bays of San Francisco, San Pablo, and Suisun, and
39 also includes the waters of Monterey Bay, eastward of a straight
40 line drawn between Point Santa Cruz Light and Point Pinos Light.

1 1115. “Secretary” means the Secretary of Business,
2 Transportation and Housing.

3
4 CHAPTER 3.5. DUTIES AND AUTHORITIES OF THE SECRETARY
5 OF BUSINESS, TRANSPORTATION AND HOUSING AGENCY
6

7 1120. (a) The secretary is vested with all functions and duties
8 relating to the administration of this division.

9 (b) The secretary’s vested powers include the power to make
10 and enforce rules and regulations that are reasonably necessary to
11 carry out its provisions and to govern its actions. These rules and
12 regulations shall be adopted in accordance with Chapter 3.5
13 (commencing with Section 11340) of Part 1 of Division 3 of Title
14 2 of the Government Code.

15 1120.5. The secretary may administer oaths in regard to any
16 matter properly before it and he or she may issue subpoenas for
17 witnesses in like cases. A witness disobeying the subpoena served
18 on him or her shall incur a penalty of five hundred dollars (\$500),
19 for which judgment may be recovered by the secretary in a civil
20 action. This section shall not apply to proceedings conducted in
21 accordance with Chapter 5 (commencing with Section 11500) of
22 Part 1 of Division 3 of Title 2 of the Government Code.

23 1121. (a) Whenever suspected safety standard violations
24 concerning pilot hoists, pilot ladders, or the proper rigging of pilot
25 hoists or pilot ladders are reported to the agency, the secretary
26 shall assign an investigator to personally inspect the equipment
27 for its compliance with the relevant safety standards promulgated
28 by the United States Coast Guard and the International Maritime
29 Organization. The investigator shall report preliminary conclusions,
30 including an assessment of the equipment’s compliance with the
31 relevant safety standards, to the secretary as soon as possible. If,
32 in the preliminary report, the equipment is found to be in violation,
33 or in likely violation in the opinion of the investigator, of the
34 relevant safety standards, the secretary shall immediately alert the
35 cognizant United States Coast Guard office. The investigator shall
36 submit a written report to the secretary that may include other
37 reports, information, or statements from interested parties. The
38 secretary shall specify, by regulation, the information that shall be
39 contained in the report.

1 (b) This section applies to the pilotage grounds, as defined in
2 Section 1114.5. Whenever a vessel passes outside of the pilotage
3 grounds, the investigator's report shall include that fact along with
4 a description of the incident.

5 (c) The record of the investigation and the secretary's findings
6 and recommendations, if any, shall be a public record maintained
7 by the agency.

8 1121.5. The agency shall keep a written record of all the
9 secretary's proceedings and acts.

10 (a) The agency shall also keep a complete record of each pilot
11 appointed and licensed by the secretary that includes at a minimum,
12 his or her current mailing address, residence, the date of the initial
13 issuance and renewal of the license, the date of completion for
14 initial and any subsequent training, and a record of any reports of
15 meritorious activities, commendation, misconduct, safety
16 violations, or other incidents or information related or relevant to
17 the issuance and use of his or her pilot license.

18 (b) All pilots licensed by the secretary shall provide the secretary
19 with written notice of any change of name, mailing address, or
20 residence within 30 days of that change in a manner prescribed by
21 the secretary.

22 1122. (a) Except as provided in Section 1122.3, all records of
23 the agency relating to the personal information of a pilot, an inland
24 pilot, a pilot trainee, or an applicant to the pilot trainee training
25 program are confidential and shall not be open to public inspection.

26 (b) For purposes of this section, "personal information" means
27 information, other than the name and mailing address, that
28 identifies an individual, including an individual's photograph,
29 social security number, address, telephone number, and medical
30 or disability information, but does not include other information
31 related to licensing such as incidents, rules or safety violations,
32 misconduct, training records, commendations, and license status.

33 1122.1. The secretary shall establish procedures for access to
34 confidential or restricted information from the agency's records
35 to protect the confidentiality of the agency's employees and
36 licensees. If confidential or restricted information is released to
37 an agent of a person authorized to obtain information, the person
38 shall require the agent to take all steps necessary to ensure
39 confidentiality and prevent the release of information to a third
40 party. An agent shall not obtain or use confidential or restricted

1 records for any purpose other than the reason the information was
2 requested.

3 1122.2. The secretary or an employee of the agency who
4 willfully discloses confidential information from the agency record
5 to a person not authorized to receive it shall be liable for a civil
6 penalty not to exceed two thousand five hundred dollars (\$2,500)
7 for each violation, which may be assessed and recovered in a civil
8 action.

9 1122.3. Upon a request to the secretary by a federal, state, or
10 local law enforcement agency, the secretary shall make available
11 to the requesting agency any information contained in the agency's
12 records.

13 1122.4. On or before April 15, 2022, and annually thereafter,
14 the secretary shall submit to the Secretary of the Senate, and the
15 Chief Clerk of the Assembly a report describing the secretary's
16 activities pursuant to this division for the preceding calendar year.
17 The report shall include, but not be limited to, all of the following:

18 (a) The number of vessel movements across the bar, on the bays,
19 and on the rivers within the secretary's jurisdiction.

20 (b) The name of each licensed pilot and pilot trainee, and the
21 status of each person. If a person has had more than one status
22 during the reporting year, each status and the length of time in that
23 status shall be indicated. For the purposes of this section, "status"
24 includes all of the following designations:

25 (1) Licensed and fit for duty.

26 (2) Licensed and not fit for duty.

27 (3) Licensed and on authorized training.

28 (4) Licensed and on active military duty.

29 (5) Licensed and on leave of absence.

30 (6) Licensed but license suspended.

31 (c) A summary of each report of misconduct or a navigational
32 incident involving a pilot or pilot trainee, or other matters for which
33 a license issued by the secretary may be revoked or suspended.
34 For those cases that have been closed, the summary shall include
35 a description of findings made by the incident review committee
36 and of the resulting action taken by the secretary. For those cases
37 that are still under investigation, the summary shall include a
38 description of the reported incident and an estimated completion
39 date for the investigation. For those closed cases involving a pilot
40 who has been involved in a prior incident where a finding of pilot

1 error had been made, the report shall also include a summary of
2 that incident.

3 1123. The secretary shall not engage in an employment,
4 activity, or enterprise that is clearly inconsistent, incompatible, in
5 conflict with, or inimical to his or her duties as a state officer or
6 make, participate in making, or attempt to use his or her official
7 position to in any way influence a governmental decision in which
8 he or she knows or has reason to know that he or she, or any
9 member of his or her immediate family, has a financial interest.

10 1124. (a) All moneys received by the agency pursuant to this
11 division shall be accounted for at the close of each month to the
12 Controller in the form that the Controller may prescribe and, at
13 the same time on the order of the Controller, all these moneys shall
14 be paid into the State Treasury to the credit of the Bar Pilot Special
15 Fund, which is hereby created in the State Treasury.

16 (b) Notwithstanding Section 13340 of the Government Code,
17 the moneys deposited in the State Treasury to the credit of the Bar
18 Pilot Special Fund are appropriated without regard to fiscal years
19 for the payment of the compensation and expenses of the agency
20 and its officers and employees.

21 (c) Moneys in the former Board of Pilot Commissioners' Special
22 Fund shall be transferred to the Bar Pilot Special Fund.

23 1124.1. (a) The vessel shall pay a secretary operations
24 surcharge, the purpose of which is to fully compensate the secretary
25 and the agency for the official services, staff services, and
26 incidental expenses of the secretary and agency. The amount of
27 the surcharge shall be 7.5 percent of all pilotage fees charged by
28 pilots, pursuant to Sections 1190 and 1191 unless the secretary
29 establishes, with the approval of the Department of Finance, a
30 lesser percentage, not to exceed any percentage consistent with
31 subdivision (d).

32 (b) The surcharge shall be billed and collected by the pilots.
33 The pilots shall pay all surcharges collected by them to the
34 secretary monthly or at such later time as the secretary may direct.

35 (c) The secretary shall quarterly review its ongoing and
36 anticipated expenses and adjust the surcharge to reflect any changes
37 that have occurred since the last adjustment.

38 (d) The secretary operations surcharge shall not represent a
39 percentage significantly more than that required to support the
40 secretary and the agency related to the administration of the

1 secretary pursuant to subdivision (a) in addition to the maintenance
2 of a reasonable reserve.

3
4 CHAPTER 4. EXCLUSIVE RIGHTS AND DUTIES OF PILOTS
5

6 1125. (a) Pilots have exclusive authority, to the extent not
7 provided otherwise by federal law, to pilot vessels from the high
8 seas to Monterey Bay and the Bays of San Francisco, San Pablo,
9 and Suisun and the ports thereof, and from those bays and ports
10 to the high seas. They shall also have exclusive authority to pilot
11 vessels within and along the waters of those bays, except as
12 otherwise set forth in this division.

13 (b) Nothing in this division shall interfere with pilotage
14 regulations of Monterey Bay and of the Ports of Sacramento and
15 Stockton, nor prevent the regulatory authority of those ports from
16 utilizing the pilots covered by this division.

17 1126. (a) A person who does not hold a license as a pilot issued
18 pursuant to this division, and who pilots any vessel into or out of
19 any harbor or port of Monterey Bay and the Bay of San Francisco,
20 San Pablo, or Suisun, or who acts as a pilot for ship movements
21 or special operations upon the waters of any of those bays, is guilty
22 of a misdemeanor. In addition to the fines or other penalties
23 provided by law, the court may order that person to pay to the pilot
24 who is entitled to pilot the vessel the amount of pilotage fees
25 collected. No fees shall be paid for pilotage if a state-licensed pilot
26 refuses to join the vessel under paragraph (5) of subdivision (c).

27 (b) A person may also be enjoined from engaging in the pilotage
28 prescribed by a court of competent jurisdiction.

29 (c) This section does not apply to any of the following persons:

30 (1) The master of a vessel who has relieved the pilot to ensure
31 the safe operation of the vessel, but only from the point where the
32 pilot is relieved to the closest safe berth or anchorage, or the high
33 seas if closer than a safe berth or anchorage.

34 (2) Persons piloting vessels pursuant to the valid regulatory
35 authority of the Port of Sacramento or the Port of Stockton.

36 (3) Persons piloting vessels sailing under an enrollment.

37 (4) Persons piloting noncommercial vessels.

38 1127. (a) The Legislature finds and declares that it is the policy
39 of the state to ensure the safety of persons, property, and vessels
40 using the waters of Monterey Bay and the Bays of San Francisco,

1 San Pablo, and Suisun and to avoid damage to those waters and
2 surrounding ecosystems as a result of vessel collision or damage
3 by providing competent, efficient, and regulated pilotage for vessels
4 required by this division to secure pilotage services.

5 (b) This section does not supersede, modify, or otherwise alter
6 pilot practices that are not safety related, including, but not limited
7 to, the determination of rates charged for pilot services or
8 employer-employee relationships for individuals, agencies, or
9 organizations involved in providing pilotage services between any
10 port of Monterey Bay and the Bays of San Francisco, San Pablo,
11 and Suisun and any other port of the United States that is in
12 existence on December 31, 1995, or otherwise abridge the authority
13 of local port or harbor districts relating to pilotage in effect on
14 December 31, 1995.

15 (c) A vessel sailing under a coastwise license or appropriately
16 endorsed registry and engaged in the coasting trade between a port
17 of Monterey Bay and the Bays of San Francisco, San Pablo, and
18 Suisun and another port of the United States is exempt from all
19 pilotage charges. A foreign vessel and a vessel bound between a
20 foreign port and a port of Monterey Bay and the Bays of San
21 Francisco, San Pablo, and Suisun, and a vessel sailing under a
22 register between a port of Monterey Bay and the Bays of San
23 Francisco, San Pablo, and Suisun and another port of the United
24 States, shall use a pilot, except as otherwise provided by law.

25 (d) Subdivision (c) does not apply to a vessel that is less than
26 750 gross tons and is manufactured and used for private recreation.
27 1128. A nonself-propelled vessel in tow of a tug within
28 Monterey Bay and the Bay of San Francisco, San Pablo, or Suisun,
29 or between those bays, is exempt from pilotage charges.

30 1130. A majority of all of the pilots shall appoint one pilot to
31 act as port agent to carry out applicable laws, and to otherwise
32 administer the affairs of the pilots.

33 1132. Every pilot in charge of a vessel arriving in Monterey
34 Bay and the Bay of San Francisco, San Pablo, or Suisun, shall
35 safely moor the vessel in place and position as directed by the
36 master of the vessel, consistent with safe navigation and not
37 contrary to law.

38 1133. Every pilot in charge of a vessel leaving the Bays of San
39 Francisco, San Pablo, and Suisun shall pilot it from its point of
40 departure to a point beyond the San Francisco bar. Every pilot in

1 charge of a vessel leaving Monterey Bay shall pilot it from its
2 point of departure to a point westward of the pilotage grounds.

3
4 CHAPTER 5. PENSION PLAN
5

6 1160. There is hereby established a San Francisco Bar Pilot
7 Pension Plan, which is continued in existence as the San Francisco
8 Pilot Pension Plan.

9 1161. All amounts generated by the pension plan shall be used
10 solely to pay pensions to retired pilots and inland pilots, disabled
11 pilots and inland pilots, and the surviving spouses of pilots and
12 inland pilots, and to pay the expenses of the plan.

13 1162. (a) The pension plan shall be administered and all benefit
14 payments shall be made by one or more fiduciary agents selected
15 by the secretary. Except for the collection of revenues in
16 accordance with Section 1165, the pilots shall have no control of
17 any kind or manner over the operation, administration, or
18 management of the plan.

19 (b) All revenues pursuant to the plan shall be collected by the
20 pilots, at no cost to the state or the secretary, and transmitted
21 monthly to the fiduciary agent or agents. The revenues shall not
22 be included in the account required by subdivision (b) of Section
23 1136.

24 1163. (a) (1) (A) Each retired pilot and inland pilot, who has
25 completed 25 full years of service as a pilot or inland pilot, or both,
26 shall receive, as a target monthly pension, an amount that is initially
27 equal to 46 percent of an amount that is an average of the highest
28 three of the last five years of audited annual average net income
29 per pilot, prior to the pilot's or inland pilot's retirement, divided
30 by 12, which initial target monthly pension amount shall be subject
31 to periodic adjustment pursuant to Section 1167. Pilots or inland
32 pilots with other than 25 full years of service as a pilot or inland
33 pilot, or both, shall receive a monthly pension in an amount that
34 is determined by multiplying the above calculated target monthly
35 pension by a fraction, the numerator of which shall be the number
36 of full years of service that the pilot or inland pilot has rendered
37 and the denominator of which shall be 25 years, which initial
38 monthly pension amount shall be subject to periodic adjustment
39 pursuant to Section 1167.

1 (B) Each disabled pilot or inland pilot shall receive as an initial
2 target monthly pension an amount that is based on 46 percent of
3 the greater of the following, which amount shall be subject to
4 periodic adjustment pursuant to Section 1167:

5 (i) An amount that is the average of the highest three of the last
6 five years of audited annual average net income per pilot divided
7 by 12 and multiplied by a fraction, the numerator of which shall
8 be the number of full years of service that the pilot or inland pilot
9 has rendered and the denominator of which shall be 25 years.

10 (ii) The audited annual average net income per pilot, for the last
11 year prior to the pilot's or inland pilot's disability, divided by 12
12 and multiplied by a fraction, the numerator of which shall be the
13 number of full years of service that the pilot or inland pilot has
14 rendered and the denominator of which shall be 25 years.

15 (C) Each pilot who retired before January 1, 1985, shall receive
16 as an initial target monthly pension an amount that is one hundred
17 seventy-eight dollars (\$178) multiplied by the number of full years
18 of service he or she performed as a pilot licensed under this
19 division, which amount shall be subject to periodic adjustment
20 pursuant to Section 1167.

21 (D) Each pilot who retired on or after January 1, 1985, or each
22 inland pilot who retired after January 1, 1993, shall receive as an
23 initial target monthly pension an amount that is the greater of the
24 following, which amount shall be subject to periodic adjustment
25 pursuant to Section 1167:

26 (i) An amount that is calculated by multiplying one hundred
27 seventy-eight dollars (\$178) by the number of full years of service
28 the pilot or inland pilot performed as a pilot or inland pilot licensed
29 under this division.

30 (ii) An amount that is 46 percent of the average of the highest
31 three of the last five years of audited annual average net income
32 per pilot, prior to the pilot's or inland pilot's retirement, divided
33 by 12 and multiplied by a fraction, the numerator of which is the
34 pilot's or inland pilot's actual number of full years of service and
35 the denominator of which is 25 years.

36 (2) A pilot or inland pilot who retires or becomes disabled shall
37 not begin to receive a pension until the beginning of the benefit
38 payment period next following the date on which the pilot or inland
39 pilot retires or becomes disabled.

1 (3) A pilot or inland pilot shall not receive any benefits pursuant
2 to the pension plan in any benefit payment period unless the pilot's
3 or inland pilot's resignation as an active pilot or inland pilot
4 specifying a proposed date of retirement was submitted, in writing,
5 to the secretary, prior to November if the pilot's or inland pilot's
6 retirement is to be effective the first day of the following January,
7 prior to February if the pilot's or inland pilot's retirement is to be
8 effective the first day of the following April, prior to May if the
9 pilot's or inland pilot's retirement is to be effective the first day
10 of the following July, or prior to August if the pilot's or inland
11 pilot's retirement is to be effective the first day of the following
12 October. The pilot's or inland pilot's resignation as an active pilot
13 or inland pilot shall become effective on either January 1, April
14 1, July 1, or October 1, as specified in the written resignation.

15 (4) If a retired or disabled pilot or inland pilot who is receiving
16 a pension dies without a surviving spouse, the pilot's or inland
17 pilot's successor in interest shall receive the monthly pension for
18 the remainder of the benefit payment period within which the death
19 occurs, after which time the monthly pension shall cease.

20 (b) (1) The surviving spouse of a deceased pilot who is eligible
21 for a pension pursuant to paragraph (1) of subdivision (e) of Section
22 1164 and the surviving spouse of a deceased inland pilot who is
23 eligible for a pension pursuant to paragraph (2) of subdivision (e)
24 of Section 1164 shall each receive, as a monthly pension,
25 three-fourths of the amount that the deceased pilot or inland pilot
26 would have received as a monthly pension pursuant to this section
27 had the pilot or inland pilot lived, calculated as if the deceased
28 pilot or inland pilot had been disabled pursuant to subparagraph
29 (B) of paragraph (1) of subdivision (a).

30 (2) If a retired or disabled pilot or inland pilot who was receiving
31 a pension dies, the surviving spouse shall continue to receive the
32 full amount of the monthly pension to which the deceased pilot or
33 inland pilot was entitled for the balance of the benefit payment
34 period within which the death occurs, after which the surviving
35 spouse shall receive the amount specified in paragraph (1).

36 (3) If a surviving spouse receiving a pension dies, the surviving
37 spouse's successor in interest shall receive the monthly pension
38 for the remainder of the benefit payment period within which the
39 death occurs, after which time the monthly pension shall cease.

1 (c) For the purpose of the computations described in paragraph
2 (1) of subdivision (a), six months or more of service by a pilot or
3 inland pilot shall be considered a full year.

4 (d) Except as provided otherwise in this section and paragraph
5 (4) of subdivision (e) of Section 1164, monthly pension amounts
6 payable pursuant to this section to retired pilots and inland pilots
7 and to their surviving spouses are payable for the life of that retired
8 pilot, inland pilot, or spouse.

9 (e) To determine an inland pilot's full years of service under
10 this chapter, any periods of service that an inland pilot has
11 performed as a pilot shall be added to any service time performed
12 as an inland pilot after January 1, 1987.

13 (f) In calculating the benefits of a retired or disabled pilot who
14 was issued an original pilot's license in 1985 and who was not
15 thereafter issued an inland pilot's license, or in calculating the
16 benefits of the widow of such a pilot who is deceased, the number
17 of years of service used in the calculation shall be the greater of
18 the following:

19 (1) The actual number of full years of service the pilot has
20 rendered.

21 (2) Ten years.

22 1164. (a) Except as provided in subdivision (b), a pilot shall
23 be eligible for the pension provided in Section 1163 if the pilot
24 meets all of the following requirements:

25 (1) Held a license as a pilot and served at least 10 years in that
26 capacity or has attained 62 years of age, whichever occurs first.

27 (2) Retired after January 1, 1972.

28 (3) Is at least 60 years of age.

29 (b) A disabled pilot shall be eligible for the pension provided
30 in Section 1163 if it has been determined by the secretary, based
31 upon competent medical evidence, that the pilot is unable to
32 perform the duties of a pilot. As used in this chapter, "disabled"
33 means a disability of permanent or extended and uncertain duration,
34 as determined by the secretary, on the basis of competent medical
35 opinion.

36 (c) Except as provided in subdivision (d), an inland pilot shall
37 be eligible for the pension provided in Section 1163 if the inland
38 pilot meets all of the following requirements:

1 (1) Held a license as an inland pilot and served at least 10 years
2 in that capacity after January 1, 1987, or has attained 62 years of
3 age, whichever occurs first.

4 (2) Retired after January 1, 1987.

5 (3) Is at least 60 years of age.

6 (4) Since January 1, 1987, has held himself or herself out as
7 providing pilotage assistance to the entire shipping industry
8 consistent with the inland pilot's license.

9 (5) For services provided after January 1, 1994, performs a
10 minimum of 75 assignments per calendar year unless excused from
11 performance of that requirement due to medical needs satisfactory
12 to the secretary.

13 (d) A disabled inland pilot who meets the requirements of
14 paragraph (4) of subdivision (c) shall be eligible for the pension
15 provided in Section 1163 if it has been determined by the secretary,
16 based upon competent medical evidence, that the inland pilot is
17 unable to perform the duties of an inland pilot.

18 (e) (1) A surviving spouse of a deceased pilot shall be eligible
19 for the pension provided in subdivision (b) of Section 1163 if that
20 deceased pilot died after January 1, 1972, and that deceased pilot
21 had held a license as a pilot.

22 (2) A surviving spouse of a deceased inland pilot shall be
23 eligible for the pension provided in subdivision (b) of Section 1163
24 if the deceased inland pilot died after January 1, 1987, had held a
25 license as an inland pilot, and since January 1, 1987, had held
26 himself or herself out as providing pilotage assistance to the entire
27 shipping industry consistent with the inland pilot's license.

28 (3) In order for a surviving spouse to be eligible for any pension
29 benefits pursuant to this chapter, the surviving spouse shall have
30 been legally married to the deceased pilot or inland pilot for at
31 least one year prior to the deceased pilot's or inland pilot's death.

32 (4) A surviving spouse of a deceased pilot or inland pilot shall
33 neither be eligible for, nor receive, pension benefits pursuant to
34 this chapter if the surviving spouse remarries. If a surviving spouse
35 who is receiving a monthly pension under this chapter remarries,
36 the surviving spouse's successor in interest shall receive the amount
37 of the monthly pension for the remainder of the benefit payment
38 period as if the surviving spouse had died, in accordance with
39 paragraph (3) of subdivision (b) of Section 1163.

1 1165. (a) A charge shall be levied for pilotage services at a
2 rate necessary to provide the benefits to be paid out pursuant to
3 the pension plan. The additional rate shall be determined as
4 follows:

5 (1) On March 1, June 1, September 1, and December 1 of each
6 year, the number of persons eligible to receive benefits under the
7 plan, their identities, the calculated amount each shall be entitled
8 to receive, and the total amount to be paid out to all of those
9 persons during each month of the next three-month period shall
10 be determined by the fiduciary agent or agents.

11 (2) After the total amount to be paid out monthly under the plan
12 has been determined, the rate necessary to provide that amount
13 each month shall be calculated by the fiduciary agent or agents.
14 The rate shall be based upon the volume of shipping, in gross
15 registered tons, handled by pilots under this division for the
16 12-month periods ending the previous September 30 for benefit
17 periods commencing the following January 1, ending the previous
18 December 31 for benefit periods commencing the following April
19 1, ending the previous March 31 for benefit periods commencing
20 the following July 1, and ending the previous June 30 for benefit
21 periods commencing the following October 1, respectively. The
22 rate shall be expressed as mills per gross registered ton and shall
23 be calculated to the nearest one-hundredth of a mill.

24 (3) The estimated cost of the services of the fiduciary agent or
25 agents to administer the pension plan shall be calculated by the
26 fiduciary agent or agents for the benefit periods described in
27 paragraph (2), shall be expressed as mills per gross registered ton,
28 and shall be calculated to the nearest one-hundredth of a mill.

29 (b) The rate determined pursuant to paragraphs (1), (2), and (3)
30 of subdivision (a) shall become effective on January 1 of the
31 following year with respect to the September 30 calculations, on
32 April 1 of the following year with respect to the December 31
33 calculations, on July 1 of that year with respect to the March 31
34 calculations, and on October 1 of that year with respect to the June
35 30 calculations. The rates shall be in effect for the succeeding
36 benefit payment period.

37 1166. (a) The benefits actually paid out each month by the
38 fiduciary agent or agents designated by the secretary to all retired
39 and disabled pilots and inland pilots, to surviving spouses of
40 deceased pilots and inland pilots, and to successors in interest shall

1 be equal to the revenue received pursuant to Section 1165 during
2 the preceding month less the expenses of the fiduciary agent or
3 agents incurred during that month. The revenue, whether greater
4 or less than the amount used in determining the tonnage rates under
5 this chapter to provide the aggregate target pensions to which those
6 persons are entitled according to Section 1163, shall be paid to
7 each of them in proportion to the relative target amounts to which
8 they are entitled, after payment of the expenses of the fiduciary
9 agent or agents.

10 (b) Revenues for any month or year are the amounts to be
11 received pursuant to the pension plan for pilotage during that month
12 or year. The fiduciary agent or agents shall determine which
13 accounting system shall be used to make the payment, provided
14 that, if the accrual method is used, it shall be subject to later
15 equitable adjustments for unpaid receivables.

16 (c) Benefits pursuant to the new rate calculations shall be paid
17 commencing in February, May, August, and November of each
18 year and shall continue through, and include, the next following
19 April, July, October, and January, respectively, so that each benefit
20 pension period equals three months of payments. The period during
21 which benefits are paid is the benefit payment period.

22 1167. (a) The secretary shall review the benefits received by
23 retired or disabled pilots and inland pilots and their surviving
24 spouses every three years or when the cumulative percentage
25 increase in the Consumer Price Index (San Francisco Bay Area)
26 has exceeded 12 percent, whichever occurs first.

27 (b) The secretary may increase the monthly pensions specified
28 in Section 1163. Those increases shall take into consideration the
29 maritime industry practice in the United States as brought to the
30 attention of the board by the pilots, inland pilots, or the industry.
31 The increase shall not exceed 50 percent of the cumulative increase
32 in the Consumer Price Index (San Francisco Bay Area). Monthly
33 pensions for retired pilots, inland pilots, or their surviving spouses
34 who have been retired less than the full three-year interval between
35 adjustments shall increase on a pro rata basis according to the
36 number of months that those persons have been retired prior to
37 that adjustment.

CHAPTER 6. LICENSING OF PILOTS

Article 1. Issuance of License

1170. The secretary shall appoint and license that number of pilots that is sufficient to carry out the purposes of this division.

1170.1. In determining the number of pilots needed, pursuant to Section 1170, the secretary shall take into consideration the findings and declarations in Sections 1100 and 1101, the results of an audit made pursuant to, and the factors specified in, Section 1203, the industry's current economic trends, fluctuations in the number of vessel calls, the size of vessels, and whether the need for pilotage is increasing or decreasing.

1170.2. Before changing the number of pilots that may be licensed pursuant to this division, the secretary shall conduct a hearing pursuant to Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code.

1170.3. (a) The secretary shall adopt, by regulation, a pilot's conflict-of-interest code that shall include, but need not be limited to, a provision specifying that a pilot shall not have any interest in, or derive any income from, any tugboat in operation on Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun. This requirement of divestiture does not apply to the ownership of barges and vessels similar to barges.

(b) The conflict-of-interest code shall not prohibit the ownership of stock in any corporation registered on a national securities exchange or on the National Market System of the NASDAQ Stock Market, pursuant to Section 78f of Title 15 of the United States Code, which may own tugboats in operation on Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun.

1171. (a) The secretary shall have the sole authority to determine the qualifications for obtaining a license as a pilot pursuant to this division, determine who shall have the license, and issue the license.

(b) All persons possessing a valid state pilot's license on January 1, 1985, are hereby licensed as if the license was granted by the secretary.

1171.5. (a) The secretary shall adopt, by regulation, licensing standards that equal or exceed standards for obtaining federal

1 endorsements and that conform with and support the state policy
2 specified in Sections 1100 and 1101.

3 (b) The secretary shall adopt reasonable rules and regulations
4 that require pilots to be qualified to perform all pilot duties.

5 (c) The secretary shall adopt, by regulation, training standards
6 and a training program for pilot trainees, and continuing education
7 standards and a continuing education program for pilots. In the
8 case of pilot trainees, the training program shall be for a minimum
9 of one year and a maximum of three years. In the case of pilots,
10 the secretary shall specify the type, nature, duration, and frequency
11 of the continuing education required and the identity of the pilots
12 who are required to undergo continuing education in the next
13 12-month period. Pursuant to Section 1182, the license of a pilot
14 may be revoked or suspended if he or she fails to complete the
15 continuing education required by this subdivision during the period
16 specified. The secretary shall also require that an evaluation of the
17 pilot's performance be prepared by the institution selected by the
18 secretary to provide pilot continuing education, and the institution
19 shall provide copies of the evaluation to the pilot and to the
20 secretary.

21 (d) The secretary shall adopt, by regulation, the qualifications,
22 standards, and rating criteria for admission of pilot trainees to the
23 training program. Notwithstanding subdivision (f), the secretary
24 shall administer and conduct the pilot trainee admission selection
25 in accordance with the regulations for admission.

26 (e) The secretary shall establish a pilot evaluation committee
27 consisting of five active pilots who each have at least 10 years'
28 experience as a pilot on the Bays of San Francisco, San Pablo, and
29 Suisun. The secretary shall select the members of the pilot
30 evaluation committee. A member may not serve for more than two
31 four-year terms, except that two of the initial members appointed
32 to the pilot evaluation committee shall serve terms of two years.

33 (f) The pilot evaluation committee shall conduct and supervise
34 the pilot trainee training program pursuant to the direction and
35 regulation of the secretary and consistent with the intent of this
36 division.

37 (g) The secretary shall issue a certificate of completion to each
38 pilot trainee who satisfactorily completes the training program.
39 The secretary shall not issue a pilot's license to any person who
40 does not receive a certificate of completion of the training program

1 from the secretary, although the secretary may refuse to issue a
2 pilot license to a pilot trainee who has received this certificate.

3 (h) The training program for pilot trainees and the continuing
4 education program for pilots shall be funded from revenues
5 collected for these purposes as determined by the secretary pursuant
6 to Sections 1195 and 1196 and deposited into the Bar Pilot Special
7 Fund pursuant to Section 1124.

8 1172. Pilots licensed by the secretary shall be carefully
9 examined as to their qualifications. A license as a pilot shall be
10 granted for a term of 12 months. The license shall be renewed
11 annually unless the secretary has good cause to withhold renewal
12 pursuant to Article 2 (commencing with Section 1180).

13 1173. An application for a pilot's license shall be made in
14 writing to the secretary, stating the information that the secretary
15 by rule and regulation may require.

16 1174. A pilot's license shall be issued in the name of the State
17 of California and contain a designation of the waters for which it
18 is intended. The license shall be signed by the secretary.

19 1175. A person shall not be licensed as a pilot unless all of the
20 following requirements are met:

21 (a) The person can meet the qualifications set by the secretary,
22 including age limitations, if any.

23 (b) The person is of good mental and physical health and good
24 moral character.

25 (c) The person possesses the requisite skill and experience as a
26 navigator and pilot, together with practical knowledge of the
27 currents, tide, soundings, bearings, and distances of the several
28 shoals, and the rocks, bars, points of landings, lights, and fog
29 signals of, or pertaining to, the navigation of the pilot ground for
30 which the person applies for a license to act as a pilot.

31 (d) The person can satisfy the secretary that the person has
32 means available for boarding and leaving vessels that the person
33 may be called upon to pilot.

34 1176. (a) The secretary shall appoint a physician or physicians
35 who are qualified to determine the suitability of a person to perform
36 his or her duties as a pilot or pilot trainee in accordance with
37 subdivision (c).

38 (b) An applicant for a pilot trainee position or for a pilot license,
39 or an existing pilot trainee or pilot seeking renewal of his or her
40 license, shall undergo a physical examination by a

1 secretary-appointed physician in accordance with standards
2 prescribed by the secretary. Within 30 days prior to the
3 examination, the applicant or licensee shall submit to the physician
4 conducting the physical examination a complete list of all
5 prescribed medications being taken by or administered to the
6 applicant or licensee.

7 (c) On the basis of both the examination and an evaluation of
8 the effects of the prescription medications named on the submitted
9 list, the physician shall designate to the secretary whether or not
10 the pilot or pilot trainee is fit to perform his or her duties as a pilot
11 or a pilot trainee.

12 (d) The license of a pilot shall not be renewed unless he or she
13 is found fit for duty pursuant to subdivision (c).

14 (e) If a pilot or a pilot trainee is prescribed either a new dosage
15 of a medication or a new medication, or suspends the use of a
16 prescribed medication, he or she shall, within 10 days, submit that
17 information to the secretary-appointed physician having possession
18 of the prescribed medication list submitted pursuant to subdivision
19 (b). When the physician receives the updated information, the
20 physician shall determine whether or not the medication change
21 affects the licensee's or trainee's fitness for duty. If the physician
22 determines that the medication change results in the pilot or pilot
23 trainee being unfit for duty, the physician shall inform the secretary.

24 (f) The secretary may terminate a pilot trainee or suspend or
25 revoke the license of a pilot who fails to submit the prescribed
26 medication information required by this section.

27 1177. (a) All pilots licensed pursuant to this division shall
28 have and maintain proper federal endorsements allowing them to
29 pilot on the high seas and on all waters of the Bays of San
30 Francisco, San Pablo, and Suisun, excluding the San Joaquin River
31 and the Sacramento deep water ship channel.

32 (b) Notwithstanding subdivision (a), all pilots issued original
33 licenses pursuant to this division after January 1, 2015, shall have
34 and maintain proper federal endorsements allowing them to pilot
35 on the high seas and on all waters of the Bays of San Francisco,
36 San Pablo, and Suisun, including the San Joaquin River and the
37 Sacramento deep water ship channel.

38 (c) All pilots licensed pursuant to this division for Monterey
39 Bay shall have and maintain proper federal endorsements allowing

1 them to pilot on the high seas and on all the waters of Monterey
2 Bay.

3 1178. Persons applying for an original license shall not receive
4 a license unless they have proper federal endorsements allowing
5 them to pilot on the high seas and all the waters of those bays
6 pursuant to Section 1171.

7 1179. Notwithstanding any other provision of this division,
8 any shipping company that regularly employed its employees, or
9 expressed its intent to the secretary to use its employees, for
10 piloting vessels on the Bays of San Francisco, San Pablo, and
11 Suisun on or before July 1, 1983, may employ and use its
12 employees in that manner in lieu of pilots provided under this
13 chapter. However, this use of employees as pilots on foreign flag
14 vessels shall be limited to five vessel calls per year for those
15 shipping companies that have only expressed their intent to use
16 their employees in lieu of pilots. This limitation shall not apply to
17 those shipping companies that regularly employed their employees
18 for piloting vessels prior to July 1, 1983.

19
20 Article 2. Suspension or Revocation
21

22 1180. If, in the opinion of the secretary, there is reasonable
23 cause to believe that the public interest requires that a pilot be
24 summarily suspended pending hearing on charges of misconduct
25 that include any of the causes for suspension or revocation specified
26 in Section 1181 or if the secretary has information that leads it to
27 believe that a pilot has become unable to comply with the standards
28 of health or physical condition requisite to a pilot's duties, the
29 secretary may, without hearing, temporarily suspend the license
30 of the pilot for not exceeding 40 days pending hearing and decision
31 on the charges. Unless an accusation on the charge is served on
32 the pilot as provided in Chapter 5 (commencing with Section
33 11500) of Part 1 of Division 3 of Title 2 of the Government Code,
34 prior to the close of the sixth day after the suspension becomes
35 effective, the temporary suspension terminates at the close of the
36 sixth day.

37 1180.6. (a) The secretary, after full consideration of the
38 evidence, report, and recommendations relating to an incident,
39 misconduct, or other matter, shall take one or more of the following
40 actions:

1 (1) Serve an accusation for suspension or revocation of the
2 pilot's license on the pilot, as provided in Chapter 5 (commencing
3 with Section 11500) of Part 1 of Division 3 of Title 2 of the
4 Government Code, pursuant to Sections 1181 and 1182.

5 (2) Enter into a written stipulation for corrective action to be
6 performed by the pilot, which may include, but is not limited to,
7 further training or supervised practice trips.

8 (3) Provide counseling for the pilot relating to the duties and
9 obligations of a pilot.

10 (4) Issue a warning letter of reprimand to the pilot.

11 (5) Take any other action, as provided in the guidelines adopted
12 pursuant to subdivision (d).

13 (6) Close the investigation without further action.

14 (7) Conduct further investigation.

15 (b) The secretary shall note any action taken pursuant to this
16 section in a pilot's record and shall establish a suspense file to
17 ensure that all training, practice trips, or other corrective action
18 required to be performed pursuant to subdivision (a) by the pilot
19 are completed as required.

20 (c) If the secretary determines that the pilot has intentionally
21 failed to complete training, practice trips, or other corrective action,
22 the secretary may take additional action as specified in subdivision
23 (a).

24 (d) The secretary shall adopt guidelines for the determination
25 by the incident review committee of the action to be taken pursuant
26 to subdivision (a).

27 1181. The license of a pilot may be revoked or suspended
28 before its expiration only for reasons of misconduct, which shall
29 include, but not be limited to, the following:

30 (a) Neglect, for 30 days after it becomes due, to render an
31 account to the secretary of all money received for pilotage.

32 (b) Neglect, for 30 days after it becomes due, to pay over to the
33 secretary the percentage of all pilotage money received, as set by
34 the secretary.

35 (c) Rendering to the secretary a false account of pilotage
36 received.

37 (d) Absence from duty for more than one month at any one time
38 without leave granted by the secretary, unless sickness or personal
39 injury causes the absence.

1 (e) Refusing to exhibit the pilot license when requested to do
2 so by the master of any vessel boarded.

3 (f) Intoxication or being under the influence of any substance
4 or combination of substances that so affects the nervous system,
5 brain, or muscles as to impair, to an appreciable degree, the ability
6 to conduct the duties of a pilot while on duty.

7 (g) Negligently, ignorantly, or willfully running a vessel on
8 shore, or otherwise rendering it liable to damage, or otherwise
9 causing injury to persons or damage to property. However, this
10 subdivision does not apply to a vessel of less than 300 gross tons
11 unless a pilot is required by law.

12 (h) Willful violation of the rules and regulations adopted by the
13 secretary for the regulation of pilots.

14 (i) Inability to comply with the standards of health or physical
15 condition requisite to the duties of a pilot, but in that case the
16 burden of proving compliance with these standards is upon the
17 licensee, unless prior to the hearing the licensee takes and passes
18 those tests or examinations required by the secretary.

19 (j) Failure or refusal to complete training, practice trips, or other
20 corrective action imposed on that pilot by the secretary pursuant
21 to Section 1180.6.

22 1182. If, after a hearing, the secretary finds that the pilot is
23 guilty of misconduct sufficient for deprivation of the license, the
24 secretary shall revoke or suspend the license of the pilot. The order
25 shall be entered in the minutes and placed in the record of the pilot
26 maintained pursuant to Section 1121.5. The proceedings shall be
27 conducted in accordance with Chapter 5 (commencing with Section
28 11500) of Part 1 of Division 3 of Title 2 of the Government Code,
29 and the secretary shall have all the powers granted pursuant to that
30 chapter.

31 1183. (a) Upon notification of nonrenewal of the license, a
32 pilot is entitled to a trial and hearing in the same manner that other
33 charges and accusations against pilots are tried.

34 (b) In every case of nonrenewal, suspension, or revocation of
35 the license of a pilot for cause, the final decision of the secretary
36 is subject to judicial review in accordance with law, and the court
37 shall exercise its independent judgment on the evidence.

CHAPTER 7. PILOTAGE RATES

1190. (a) Every vessel spoken inward or outward bound shall pay the following rate of bar pilotage through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun:

(1) Eight dollars and eleven cents (\$8.11) per draft foot of the vessel's deepest draft and fractions of a foot pro rata, and an additional charge of 73.01 mills per high gross registered ton as changed pursuant to law in effect on December 31, 1999. The mill rates established by this paragraph may be changed as follows:

(A) (i) On and after January 1, 2010, if the number of pilots licensed by the secretary is 58 or 59 pilots, the mill rate in effect on December 31, 2006, shall be decreased by an incremental amount that is proportionate to one-half of the last audited annual average net income per pilot for each pilot licensed by the secretary below 60 pilots.

(ii) On and after January 1, 2010, if the number of pilots licensed by the secretary is fewer than 58 pilots, the mill rate in effect on December 31, 2006, shall be adjusted in accordance with the method described in clause (i) as though there are 58 pilots licensed by the secretary.

(iii) The incremental mill rate adjustment authorized by this subparagraph shall be calculated using the data reported to the secretary for the number of gross registered tons handled by pilots licensed under this division during the same 12-month period as the audited annual average net income per pilot. The incremental mill rate adjustment shall become effective at the beginning of the immediately following quarter, commencing January 1, April 1, July 1, or October 1, as directed by the secretary.

(iv) On and after January 1, 2010, if, during any quarter described in this paragraph, the number of pilots licensed by the secretary is equal to or greater than 60, clauses (i) to (iii), inclusive, shall become inoperative on the first day of the immediately following quarter.

(B) There shall be an incremental rate of additional mills per high gross registered ton as is necessary and authorized by the secretary to recover the pilots' costs of obtaining new pilot boats and of funding design and engineering modifications for the purposes of extending the service life of existing pilot boats,

1 excluding costs for repair or maintenance. The incremental mill
2 rate charge authorized by this subparagraph shall be identified as
3 a pilot boat surcharge on the pilots' invoices. Net proceeds from
4 the sale of existing pilot boats shall be used to reduce the debt on
5 the new pilot boats and any debt associated with the modification
6 of pilot boats under this subparagraph. The secretary may adjust
7 a pilot boat surcharge to reflect any associated operational savings
8 resulting from the modification of pilot boats under this
9 subparagraph, including, but not limited to, reduced repair and
10 maintenance expenses.

11 (C) In addition to the incremental rate specified in subparagraph
12 (B), the mill rate established by this subdivision may be adjusted
13 at the direction of the secretary if, after a hearing conducted
14 pursuant to Article 9 (commencing with Section 11120) of Chapter
15 1 of Part 1 of Division 3 of Title 2 of the Government Code, the
16 secretary determines that there has been a catastrophic cost increase
17 to the pilots that would result in at least a 2-percent increase in the
18 overall annual cost of providing pilot services.

19 (2) A minimum charge for bar pilotage shall be six hundred
20 sixty-two dollars (\$662) for each vessel piloted.

21 (3) The vessel's deepest draft shall be the maximum draft
22 attained, on a stillwater basis, at any part of the vessel during the
23 course of the inward or outward transit.

24 (b) The rate specified in subdivision (a) shall apply only to a
25 pilotage that passes through the Golden Gate to or from the high
26 seas to or from a berth within an area bounded by the Union Pacific
27 Railroad Bridge to the north and Hunter's Point to the south. The
28 rate for pilotage to or from the high seas to or from a point past
29 the Union Pacific Railroad Bridge or Hunter's Point shall include
30 a movement fee in addition to the basic bar pilotage rate as
31 specified by the secretary pursuant to Section 1191.

32 (c) The rate established in paragraph (1) of subdivision (a) shall
33 be for a trip from the high seas to dock or from the dock to high
34 seas. The rate specified in Section 1191 shall not be charged by
35 pilots for docking and undocking vessels.

36 (d) The secretary shall determine the number of pilots to be
37 licensed based on the 1986 manpower study adopted by the former
38 Board of Pilot Commissioners for Monterey Bay, and the Bays of
39 San Francisco, San Pablo, and Suisun (board).

(e) Consistent with the former board's May 2002 adoption of rate recommendations, the rates imposed pursuant to paragraph (1) of subdivision (a) that are in effect on December 31, 2002, shall be increased by 4 percent on January 1, 2003; those in effect on December 31, 2003, shall be increased by 4 percent on January 1, 2004; those in effect on December 31, 2004, shall be increased by 3 percent on January 1, 2005; and those in effect on December 31, 2005, shall be increased by 3 percent on January 1, 2006.

1190.1. Every vessel that uses a pilot under this division while navigating the waters of Monterey Bay shall pay the rate provided by subdivisions (a) and (e) of Section 1190.

1191. (a) The secretary, pursuant to Chapter 8 (commencing with Section 1200), shall recommend that the Legislature, by statute, adopt a schedule of pilotage rates providing fair and reasonable return to pilots engaged in ship movements or special operations if rates for those movements or operations are not specified in Section 1190.

(b) A vessel using pilots for ship movements or special operations that do not constitute bar pilotage shall pay the rate specified in the schedule of pilotage rates adopted by the Legislature.

(c) Consistent with the former board's adoption of rate recommendations in May 2002, the minimum rates imposed pursuant to this section that are in effect on December 31, 2002, shall be increased by 26 percent on January 1, 2003; those in effect on December 31, 2003, shall be increased by 26 percent on January 1, 2004; those in effect on December 31, 2004, shall be increased by 14 percent on January 1, 2005; and those in effect on December 31, 2005, shall be increased by 14 percent on January 1, 2006.

1192. If a vessel that is subject to the payment of pilotage enters any port of Monterey Bay and the Bays of San Francisco, San Pablo, or Suisun solely by reason of being in distress or requiring care, it shall pay one-half the full pilotage rates.

1193. (a) Only the following noncommercial vessels that use pilotage services are exempt from the pilotage fees and surcharges established pursuant to this division, except for the secretary operations surcharge as established and calculated pursuant to Section 1124.1:

(1) Maritime academy training vessels, whether foreign or domestic.

1 (2) Vessels owned and operated by a nonprofit museum or
2 foundation.

3 (b) The vessels specified in subdivision (a) are subject to Section
4 1198.

5 1195. (a) In addition to other fees for pilotage, there shall be
6 a surcharge in an amount established by the secretary for each
7 movement of a vessel using pilot services for each pilot trainee
8 who is enrolled in the pilot trainee training program established
9 by the secretary.

10 (b) The moneys charged and collected each month from the
11 pilot trainee surcharge shall be paid to the secretary. The moneys
12 shall be used only to fund the pilot trainee training program in the
13 manner established by the secretary.

14 (c) By action of the secretary, the secretary may adjust the
15 amount established pursuant to subdivision (a) as necessary to
16 efficiently administer the pilot trainee training program.

17 1195.1. (a) The moneys charged and collected each month
18 from the pilot trainee surcharge pursuant to Section 1195 shall be
19 paid to the Bar Pilot Special Fund pursuant to Section 1124. The
20 moneys shall be used only to fund the pilot trainee training program
21 referred to in subdivision (h) of Section 1171.5 and Section 1195.3.

22 (b) Information regarding moneys remitted to the Bar Pilot
23 Special Fund pursuant to Section 1124 collected from the surcharge
24 authorized pursuant to Section 1195, or otherwise collected by the
25 secretary for that purpose, and information regarding moneys spent
26 as pilot trainee training program expenses authorized by Section
27 1195.3 shall be made available to the public upon request and to
28 the secretary.

29 1195.3. Expenses of the pilot trainee training program shall
30 include all costs incurred by the secretary in the operation and
31 administration of the pilot trainee training program and all costs
32 resulting from any contracts entered into for the purchase or lease
33 of goods and services required by the secretary, including, but not
34 limited to, the costs of testing, test preparation, advertising and
35 soliciting for trainee applicants, trainee stipends, workers'
36 compensation insurance premiums, reimbursement of costs of
37 services provided to the secretary by other governmental entities,
38 and for the costs for any other goods and services necessary for
39 effectuating the purposes of training as determined by the secretary.

1 1196. (a) In addition to other fees for pilotage, there shall be
2 a surcharge in an amount established by the secretary for each
3 movement of a vessel using pilot services for the pilot continuing
4 education program established by the secretary.

5 (b) The moneys charged and collected each month from the
6 pilot continuing education program surcharge shall be paid to the
7 secretary. The moneys shall be used only to fund the pilot
8 continuing education program in the manner established by the
9 secretary.

10 (c) By action of the secretary, the secretary may adjust the
11 amount established pursuant to subdivision (a) as necessary to
12 efficiently administer the pilot continuing education program.

13 1196.1. (a) The moneys charged and collected each month
14 from the pilot continuing education surcharge pursuant to Section
15 1196 shall be paid to the Bar Pilot Special Fund pursuant to Section
16 1124. The moneys shall be used only to fund the pilot continuing
17 education program referred to in subdivision (h) of Section 1171.5
18 and Section 1196.3.

19 (b) Information regarding moneys remitted to the Bar Pilot
20 Special Fund pursuant to Section 1124 collected from the surcharge
21 authorized pursuant to Section 1196, or otherwise collected by the
22 secretary for that purpose, and information regarding moneys spent
23 as pilot continuing education expenses authorized by Section
24 1196.3 shall be made available to the public upon request to the
25 secretary.

26 1196.3. Pilot continuing education expenses shall include all
27 costs incurred by the secretary in the operation and administration
28 of the pilot continuing education program and all costs resulting
29 from any contracts entered into for the purchase or lease of goods
30 and services required by the secretary, including, but not limited
31 to, the reimbursement of costs of services provided to the secretary
32 by other governmental entities, and for the costs for any other
33 goods and services necessary for effectuating the purposes of
34 continuing education as determined by the secretary.

35 1198. (a) Except as provided in subdivision (c), the rates and
36 charges for pilotage services shall not include the cost of primary
37 marine insurance insuring a pilot, an organization of pilots, or their
38 officers or employees, from liability arising from negligence or
39 errors in judgment in connection with the provision of pilotage

1 service by pilots, organizations of pilots, or their officers or
2 employees.

3 (b) A pilot who holds a state license for the Bays of San
4 Francisco, San Pablo, and Suisun shall arrange to have available,
5 upon advance written notice, trip insurance, with coverage limits
6 of thirty-six million dollars (\$36,000,000), naming as insureds the
7 pilot, any organization of pilots to which the pilot belongs, and
8 their officers and employees, and insuring the named insureds
9 against any civil claim, demand, suit, or action by whomsoever
10 asserted, arising out of, or relating to, directly or indirectly, acts
11 or omissions of the insureds in connection with the provision of
12 pilotage service, except willful misconduct.

13 (c) Every vessel, owner, operator, or demise or bareboat
14 charterer hiring a pilot with a state license for the Bays of San
15 Francisco, San Pablo, and Suisun shall either defend, indemnify,
16 and hold harmless pilots pursuant to paragraph (1), or alternatively,
17 notify pilots of an intent to pay for trip insurance pursuant to
18 paragraph (2). If a vessel or its owner, operator, or demise or
19 bareboat charterer does not provide written notice pursuant to
20 paragraph (2) of an intent to exercise the trip insurance option,
21 then the vessel and its owner, operator, and demise or bareboat
22 charterer will be deemed to have elected the obligation to defend,
23 indemnify, and hold harmless pilots pursuant to paragraph (1).

24 (1) (A) Except for a vessel electing trip insurance pursuant to
25 paragraph (2), a vessel subject to this subdivision, and its owner,
26 operator, demise or bareboat charterer, and agent shall not assert
27 any claim, demand, suit, or action against the pilot, any
28 organization of pilots to which the pilot belongs, and their officers
29 and employees, for damages, including any rights over, arising
30 out of, or connected with, directly or indirectly, any damage, loss,
31 or expense sustained by the vessel, its owners, agents, demise or
32 bareboat charterers, operators, or crew, or by any third parties,
33 even if the damage results, in whole or in part, from any act,
34 omission, or negligence of the pilot, any organization of pilots to
35 which the pilot belongs, and their officers and employees.

36 (B) A vessel subject to this paragraph and its owner, operator,
37 and demise or bareboat charterer shall defend, indemnify, and hold
38 harmless the pilot, any organization of pilots to which the pilot
39 belongs, and their officers and employees, with respect to liability
40 arising from any claim, suit, or action, by whomsoever asserted,

1 resulting, in whole or in part, from any act, omission, or negligence
2 of the pilot, any organization of pilots to which the pilot belongs,
3 and their officers and employees. The obligation to indemnify
4 under this paragraph shall not apply to the extent that it causes the
5 amount recoverable from a vessel, its owner, operator, or demise
6 or bareboat charterer to exceed the limits of liability to which it is
7 entitled under any bill of lading, charter party, contract of
8 affreightment, or provision of law.

9 (C) The prohibition on claims by vessels, owners, operators,
10 demise or bareboat charterers, and agents imposed by subparagraph
11 (A) and the obligation to defend, indemnify, and hold harmless
12 the pilot imposed by subparagraph (B) shall not apply in cases of
13 willful misconduct by a pilot, any organization of pilots to which
14 the pilot belongs, and their officers and employees.

15 (D) A pilot who is the prevailing party shall be awarded
16 attorney's fees and costs incurred in any action to enforce a right
17 to indemnification provided pursuant to this subdivision.

18 (2) In lieu of paragraph (1), a vessel subject to this subdivision
19 and its owner, operator, demise or bareboat charterer, and agent
20 may elect to notify the pilot, or the organization of pilots to which
21 the pilot belongs, of intent to pay for trip insurance, as described
22 in subdivision (b). If notice of this election is received, in writing,
23 by the pilot, or the organization of pilots to which the pilot belongs,
24 at least 24 hours prior to the time pilotage services are requested,
25 the vessel, and its owner, operator, demise or bareboat charterer,
26 and agent are not subject to the requirements of paragraph (1). The
27 pilot shall take all steps necessary to have trip insurance coverage
28 in place during the vessel movement for which it is requested. The
29 pilot shall assess to the vessel the premium for the trip insurance
30 at the pilot's cost, in addition to any other applicable rates and
31 charges for the pilotage services provided.

32 (d) This section does not limit, alter, or diminish the liability of
33 a vessel, owner, operator, or demise or bareboat charterer to any
34 person who sustains loss or damage.

35 CHAPTER 8. PILOTAGE RATE RECOMMENDATIONS

36
37
38 1200. The secretary shall, from time to time, review pilotage
39 expenses and establish guidelines for the evaluation and application

1 of these expenses for purposes of making recommendations to the
2 Legislature regarding adjustments in pilotage rates.

3 1201. Any party directly affected by pilotage rates established
4 under this chapter may petition the secretary for a public hearing
5 on any of the matters set forth in Section 1200. Within 10 days
6 from the filing of the petition the secretary shall call public hearings
7 to be held not less than 30 nor more than 60 days of the date of
8 call for the purpose of obtaining information and data relating to
9 the issues raised in the petition. The secretary shall give notice of
10 the hearings to all interested parties who have requested the
11 notification. At the conclusion of the hearing or hearings, the
12 secretary shall review and evaluate all evidence obtained and,
13 within 120 days from the filing of the petition, shall submit to the
14 Secretary of the Senate and the Chief Clerk of the Assembly a
15 copy of its findings and recommendations for final determination,
16 supported by a transcript of these proceedings of the secretary.

17 1201.5. (a) The secretary shall not receive written evidence
18 at a public hearing held for the purpose of considering pilotage
19 rates unless 10 or more copies of the evidence have been deposited
20 with the secretary as public documents by the party proposing a
21 rate adjustment 30 or more days prior to the date set for the
22 commencement of the hearing.

23 (b) The secretary shall not receive written evidence at the
24 hearing from any party responding to the request unless the
25 evidence is deposited with the secretary 10 or more days prior to
26 the date set for the commencement of the hearing.

27 1202. Public hearings for the purpose of investigating pilotage
28 rates shall be conducted in accordance with the Bagley-Keene
29 Open Meeting Act (Article 9 (commencing with Section 11120)
30 of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
31 Code) and a full record shall be kept of all evidence offered.

32 1203. In preparing recommendations to the Legislature relating
33 to pilotage rates, the secretary may require an independent audit
34 or audits by a public accountant selected by the secretary. The
35 audits required by the secretary shall cover pilotage operations for
36 those years that the secretary may specify. In preparing the
37 recommendations, the secretary shall also give consideration to
38 other relevant factors, including, but not limited to, the following:

39 (a) The costs to the pilots, individually or jointly, of providing
40 pilot service as required.

(b) A net return to the pilot sufficient to attract and hold persons capable of performing this service with safety to the public and protection to the property of persons using the service; and the relationship of that income to any changes in cost-of-living indices.

(c) Pilotage rates charged for comparable services rendered in other ports and harbors in the United States.

(d) The methods of determining pilotage rates in other ports and harbors in the United States.

(e) Economic factors affecting the local shipping industry, including prospective increases or decreases in income and labor costs.

(f) Additional factors affecting income to pilots, such as the volume of shipping traffic using pilotage, numbers of pilots available to perform services, income paid for comparable services, and other factors of related nature.

(g) Changes in, or additions to, navigational and safety equipment necessary to insure protection of persons, ships, and waterways.

CHAPTER 9. EFFECTIVE DATE

1220. This division shall become operative on January 1, 2022.

SEC. 2. Chapter 7 (commencing with Section 1220) is added to Division 5 of the Harbors and Navigation Code, to read:

CHAPTER 7. REPEAL DATE

1220. This division shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2022, deletes or extends that date.